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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,662	11/09/2001	Thomas Dean Robbins	17535.1.1	6050
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Workman Nydegger 1000 Eagle Gate Tower 60 East South Temple Salt Lake City, UT 84111			EXAMINER LONSDERRY, HUNTER B	
			ART UNIT 2421	PAPER NUMBER
			MAIL DATE 01/22/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/986,662

Applicant(s)

ROBBINS, THOMAS DEAN

Examiner

Hunter B. Lonsberry

Art Unit

2421

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 11-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 11-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C2)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 14-16 are rejected under 35 U.S.C. 102(e) as being anticipated by US 2003/0131356 A1 to Proehl.

Regarding claim 14, Proehl discloses a method of programming a television receiver, the receiver operable to receive a plurality of television channels, the receiver comprising an automatic tuner, the automatic tuner being operable to automatically tune the receiver to a particular channel, the particular channel corresponding to an ID code, said method (figure 6/7) comprising:
receiving a first broadcast television program with the receiver (figure 7, step 710b), the first broadcast television program being received on a first channel during a first time period (paragraphs 30-31/33, a user is watching an commercial or an upcoming

program, an);

receiving a commercial (paragraphs 30-31,33) corresponding to a second television program with the receiver, the commercial being received on the first channel during a second time period, the second time period being within the first time period (paragraphs 30-31,33 the advertisement is for an upcoming program);

receiving the ID code with the receiver, the ID code being received on the first channel during the second time period (30-34, pattern recognition, program information regarding the future program including timing and channel info or title or other code data is retrieved and stored);

If a user instruction is received during the second time period activating the receiver during the second time period to extract and store the ID code (30-34, pattern recognition, program information regarding the future program including timing and channel info or title or other code data is retrieved and stored);

and automatically tuning the receiver to a second channel after the first period (paragraph 36, a reminder or automatic tuning is utilized).

Regarding claims 15-16, Proehl discloses an availability indicator during the second period (figure 9) and that the remote control transmits a signal in response to a user button press (paragraph 25).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 11-13 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2003/0131356 A1 to Proehl in view of US 5,878,222 To Harrison.

Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by US 2003/0131356 A1 to Proehl et al.

Regarding claims 1, 5 and 6, Proehl discloses a method of programming a television receiver, the receiver operable to receive a plurality of television channels, the receiver comprising an automatic tuner, the automatic tuner being operable to automatically tune the receiver to a particular channel, the particular channel corresponding to an ID code, said method (figure 6/7) comprising: receiving a first broadcast television program with the receiver (figure 7, step 710b), the

first broadcast television program being received on a first channel during a first time period (paragraphs 30-31/33, a user is watching an commercial or an upcoming program, an);

receiving a commercial (paragraphs 30-31,33) corresponding to a second television program with the receiver, the commercial being received on the first channel during a second time period, the second time period being within the first time period (paragraphs 30-31,33 the advertisement is for an upcoming program);

receiving the ID code with the receiver, the ID code being received on the first channel during the second time period (30-34, pattern recognition, program information regarding the future program including timing and channel info or title or other code data is retrieved and stored);

If a user instruction is received during the second time period activating the receiver during the second time period to extract and store the ID code (30-34, pattern recognition, program information regarding the future program including timing and channel info or title or other code data is retrieved and stored);

and automatically tuning the receiver to a second channel after the first period (paragraph 36, a reminder or automatic tuning is utilized).

Proehl fails to disclose automatically tuning to a second channel if the ID code is detected on the second channel out of a plurality of second channels.

Harrison discloses a receiver with an analyzing unit 250 which monitors a plurality of channels for stored predefined items of interest to a user, including text, numbers, graphic images, URLs (column 3, lines 46-column 4, line 2) when a channel

which contains the ID code corresponding to a predefined item is found, the channel is changed from the current channel to the new channel containing the item (column 4, lines 18-57). Video snapshots can be compared to determine a match for an alternate program (figure 4c, column 6, lines 33-40).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Proehl to utilize the automatic monitoring features as taught by Harrison, for the advantages of readily finding programming of interest, or keeping updated for the latest news or sports scores (column 5, lines 22-53).

Regarding claim 2, Proehl discloses ID codes which include programming ID codes and capture ID codes (30-34). Bait ID codes

Harrison also teaches capture ID/repeating ID codes (figure 3b, column 5, lines 11-53), bait ID codes (column 4, lines 40-57, triggers may be ignored so that channels aren't constantly changed)

Regarding claims 3, Proehl teaches a profile command which includes information on which channel to tune to, the start time and for how long (paragraphs 30-34).

Harrison is relied upon to teach 6 types of programming ID codes (figure 3b).

Regarding claim 4, Proehl discloses transmitting ID codes.

Wilkins fails to teach the differentiating portion of the ID code being 2 bits.

The examiner takes official notice that 2 bit fields are notoriously well known in the art.

Therefore it would have been obvious to modify Proehl to use a 2bit differentiation in view of KSR.

Regarding claim 11, see claim 1.

Regarding claims 12-13, Proehl discloses an availability indicator during the second period (figure 9) and that the remote control transmits a signal in response to a user button press (paragraph 25).

Claim 17 is met by claims 1 and 2.

Claims 18-20 are met by claim 1.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is (571)272-7298. The examiner can normally be reached on Monday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hunter B. Lonsberry/
Primary Examiner
Art Unit 2421

HBL